

the Hearing on the public docket so that all potential Settlement Class Members interested in participating may do so. A Proposed Order effectuating the requested relief in this Motion is attached as Exhibit 1.

PRELIMINARY STATEMENT

Financial Institution Plaintiffs respectfully submit that conducting the Hearing by telephone or videoconference, pursuant to the requirements for such proceedings established by this Court, is the best solution to address the circumstances arising from the COVID-19 pandemic, while avoiding unnecessary confusion or delay.

Financial Institution Plaintiffs believe that holding the Hearing by telephone or video is in the best interests of the Parties and the putative Settlement Class because it would advance resolution of this Action that has been pending for over two and a half years. As explained below, courts permit approval hearings for class action settlements to proceed telephonically. In the present circumstances, this approach is especially appropriate as it will help protect the Health and safety of everyone involved including (1) the Court, chambers staff, and other court employees; (ii) Settlement Class Members, who may be located anywhere in the United States or abroad; and (iii) counsel to the Parties, many of whom are located in cities presently subject to “stay-at-home” orders or their equivalent. Importantly, if the Settlement is approved, it will also help keep settlement of this matter on track, ensuring that putative Settlement Class Members entitled to participate in the

recovery provided by the Settlement will get their money as quickly as reasonably possible in the circumstances. Defendants consent to this request and, as discussed below, holding the Hearing by telephone or videoconference on October 22, 2020, would not prejudice any potential Settlement Class Members.

FACTUAL AND PROCEDURAL BACKGROUND

On May 15, 2020, Financial Institution Plaintiffs moved for Preliminary Approval of the Class Action Settlement reached between them and Defendants. (ECF No. 1107). In order to move forward with the settlement, including sending Notice of the settlement to all potential class members, the Court held a Hearing on Financial Institution Plaintiffs' Motion on June 4, 2020. *See, e.g., Carter v. Forjas Taurus, S.A.*, 701 F. App'x 759, 763 (11th Cir. 2017). The Court entered a Preliminary Approval Order on June 4, 2020 setting the Final Approval Hearing for October 20, 2020. (ECF No. 1133.)

A Seventh Amendment to General Order 20-01 issued in response to Coronavirus Disease 2019 (Covid-19) was issued on September 1, 2020. Pursuant to this Order, the Parties move the Court to hold the Final Approval of Class Action Settlement Hearing by teleconference or videoconference.

ARGUMENT

This Court has recently permitted approval hearings for class action settlements to proceed telephonically due to the issues related to COVID-19. *See*

e.g., In Re Equifax Customer Data Security Breach Litigation, No. 1:17-md-2800-TWT (N.D. Ga.), ECF No. 1120 (Order Providing that the Preliminary Approval of Settlement Hearing for the Financial Institutions Track scheduled for June 4, 2020 Be Conducted by Telephone or Video Conference), May 22, 2020; *In re Equifax Inc. Derivative Litigation*, No. 1:18-CV-00317-TWT (N.D. Ga.), ECF No. 130 (Order Providing that Final Settlement Hearing Scheduled for June 22, 2020 Be Conducted by Telephone or Video Conference), May 15, 2020; *In re Equifax Securities Litigation*, No. 1:17-cv-03463-TWT (N.D. Ga.), ECF No. 172 (Order Providing that Final Settlement Hearing scheduled for June 26, 2020 Be Conducted by Telephone or Video Conference), April 28, 2020. Indeed, multiple courts, including another Judge in this District, have recently decided to hold such hearings telephonically due to the issues related to COVID-19. *See City of Sunrise Gen. Emp. Ret. Plan v. FleetCor techs, Inc.*, No. 1:17-cv-02207-LMM, slip op. at 1 (N.D. Ga. Mar. 24, 2020), ECF No. 104 (ordering that final approval hearing for data breach class action settlement be held telephonically).

This approach is also consistent with the guidelines adopted by the Northern District of Georgia concerning the COVID-19 pandemic. *See In re Court Operations Under the Exigent Circumstances Created by COVID-19 and related Coronavirus*, General Order 20-1, ¶6(N.D. Ga. Mar. 16, 2020) (“Individual judges may continue to hold hearings, conferences, and bench trials in the exercise of their

discretion, consistent with this Order.”); *see also Authorizing Media and Public Access to Video Conference and Telephone Conference Proceedings Under the Exigent Circumstances Created by COVID-19*, Administrative Order 20-3 (N.D. Ga. Apr. 16, 2020) (recognizing the state of emergency existing in the District as a result of the coronavirus pandemic and “desiring to facilitate public and media access to the telephone and video proceedings of the Court,” the Court ordered the clerk to establish procedures to provide members of the public a means to access court proceeding by telephone and other remote means).

If the Court grants this Motion, Financial Institution Plaintiffs would request that the Court enter the accompanying proposed Order and a notice of the Hearing on the docket scheduling the Hearing for October 22, 2020, at 2:00 PM and provide the parties the access information to participate in the Hearing. Counsel defers to the Court on whether to conduct the Hearing by videoconference or telephone conference but would request that the technology used include the option to participate by telephone in the event that some Settlement Class Members may lack necessary video or computer equipment.

Dated: September 8, 2020

Respectfully submitted,

/s/ Joseph P. Guglielmo
Joseph P. Guglielmo

/s/ Gary F. Lynch
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Financial Institution Plaintiffs' Steering Committee

CERTIFICATION

The Undersigned hereby certifies, pursuant to Local Civil Rule 7.1 D, that the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Civil Rule 5.1C.

This 8th day of September, 2020.

/s/ MaryBeth V. Gibson
MaryBeth V. Gibson

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed with this Court via its CM/ECF service, which will send notification of such filing to all counsel of record this 8th day September, 2020.

/s/ MaryBeth V. Gibson
MaryBeth V. Gibson